

Order

**Michigan Supreme Court
Lansing, Michigan**

February 1, 2011

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2010-36

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

Amendment of Rule 3.705
of the Michigan Court Rules

On order of the Court, the need for immediate action having been found, the notice requirements of MCR 1.201 are dispensed with and the following amendment of Rule 3.705 of the Michigan Court Rules is adopted, effective immediately. Comments will be received until June 1, 2011, and may be submitted to the Supreme Court Clerk in writing or electronically to P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2010-36. Your comments and comments of others will be posted on the Supreme Court's website at the following: www.courts.mi.gov/supremecourt/resources/administrative/index.htm. The amendment will be considered at a future public hearing. The notices and schedules of public hearings are posted on the Supreme Court's website at the following address: www.courts.mi.gov/supremecourt/resources/administrative/ph.htm.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 3.705 Issuance of Personal Protection Orders

(A) [Unchanged.]

(B) Hearings.

(1) The court shall schedule a hearing as soon as possible in the following instances, unless it determines after interviewing the petitioner that the claims are sufficiently without merit that the action should be dismissed without a hearing:

(a) the petition does not request an ex parte order; or

- (b) the court refuses to enter an ex parte order and the petitioner subsequently requests a hearing.
- (2) The petitioner shall serve on the respondent notice of the hearing along with the petition as provided in MCR 2.105(A). If the respondent is a minor, and the whereabouts of the respondent's parent or parents, guardian, or custodian is known, the petitioner shall also in the same manner serve notice of the hearing and the petition on the respondent's parent or parents, guardian, or custodian. One day before the hearing on a petition seeking a PPO under MCL 600.2950 or MCL 600.2950a(1) is deemed sufficient notice. Two days before the hearing on a petition seeking a PPO under MCL 600.2950a(2) is deemed sufficient notice.
- (3) The hearing shall be held on the record.
- (4) The petitioner must attend the hearing. If the petitioner fails to attend the hearing, the court may adjourn and reschedule the hearing or dismiss the petition.
- (5) If the respondent fails to appear at a hearing on the petition and the court determines the petitioner made diligent attempts to serve the respondent, whether the respondent was served or not, the order may be entered without further notice to the respondent if the court determines that the petitioner is entitled to relief.
- (6) At the conclusion of the hearing the court must state the reasons for granting or denying a personal protection order on the record and enter an appropriate order. In addition, the court must state the reasons for denying a personal protection order in writing, and, in a proceeding under MCL 600.2950a, the court must state in writing the specific reasons for issuance of the order.

Staff Comment: This amendment, submitted to the Court by the State Bar of Michigan Domestic Violence Committee, amends MCR 3.705 to allow sufficient time for a respondent to file a written motion and offer of proof at least 24 hours before a hearing as required by statute. MCL 600.2950a(4) requires that a respondent who wants to introduce evidence covered by the rape shield provision of MCL 750.520j submit a notice and offer of proof at least 24 hours before the hearing. Before adoption of this amendment, the rule's one-day notice of hearing requirement would not have provided the respondent 24 hours within which to submit the offer of proof, so the SBM Domestic Violence Committee recommended that the rule be amended to change the time provision regarding notice of hearing for a sexual assault PPO to two days instead of one day.

The staff comment is not an authoritative construction by the Court.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 1, 2011

Corbin R. Davis

Clerk